

LITIGATION ROSTER

FRANCHISE AND INCOME TAX

JULY 2011

Franchise and Income Tax
JULY 2011

NEW CASES

Case Name

Court/Case Number

None

CLOSED CASES

Case Name

Court/Case Number

None

Please refer to the case roster for more detail regarding new and closed cases

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MALEKSALEHI, NEMAT, Maryam Maleksalehi v. State Board of Equalization

Sacramento County Superior Court No. 34-2009-80000365

Filed – 10/29/09

BOE's Counsel

Jill Bowers

BOE Attorney

Anthony Epolite

Plaintiff's Counsel

Barzin Barry Sabahat

Anchor Law Group, APC

Issue(s): Petitioners contend writ relief is necessary to correct the BOE's 'clearly erroneous' determination in petitioners' appeal. Petitioners further contend that the BOE erroneously: (1) denied petitioners' appeal; (2) assessed income taxes against the petitioners; and (3) is illegally collecting income taxes from petitioners. BOE contends a writ of mandate is not the proper and exclusive remedy provided under the California Constitution and Revenue and Taxation Code to litigate a disputed income tax; the proper and exclusive remedy is a tax refund suit. ([Cal. Const., art. XIII, section 32](#), Revenue & Taxation Code sections [19381](#), [19382](#); *Nast v. Board of Equalization* (1996) 46 Cal.App. 4th 343.) BOE is not a proper defendant in this action and no cause of action can be stated against BOE; the proper defendant in tax refund litigation is the FTB. (*Id.*) In addition, the complaint is not timely filed pursuant to Revenue & Taxation Code section [19384](#), and is therefore time barred.

Audit/Tax Period: 2001

Amount: \$115,870.00

Status: On March 25, 2011, the trial court sustained BOE's demurrer to the First Amended Petition for Writ of Mandate and Complaint, without leave to amend. Order Sustaining Demurrer by Respondent State Board of Equalization was filed April 29, 2011. Judgment of Dismissal as to Respondent State Board of Equalization was entered April 29, 2011. The Notice of Entry of Judgment for Board of Equalization was served on June 20, 2011.

**FRANCHISE AND INCOME TAX
CLOSED CASES
LITIGATION ROSTER
JULY 2011**

No cases were closed during this period.

DISCLAIMER

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